

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

SAADIA RAYFORD, *et al.*,

Plaintiffs,

vs.

Civil Action 2:05-CV-1088
Judge Watson
Magistrate Judge King

HERLIHY MOVING AND STORAGE
INC.,

Defendant.

REPORT AND RECOMMENDATION

This action was originally filed in state court. In it, plaintiffs seek recovery of damages allegedly caused by defendant's failure to properly store and preserve plaintiffs' personal property. The action was removed to this Court as both a diversity action, 28 U.S.C. §1332, and as an action arising under federal law, *i.e.*, the Carmack Amendment, 48 U.S.C. §14706. This matter is before the Court on plaintiffs' motion to remand the action. Doc. No. 8.

In the motion to remand, plaintiffs address only the issue of diversity jurisdiction and make no mention of the alternative basis for removal of the action. Because it appears that the action was properly removed at least as an action arising under federal law, it is therefore **RECOMMENDED** that the motion to remand, Doc. No. 8, be **DENIED**.

If any party seeks review by the District Judge of this *Report and Recommendation*, that party may, within ten (10) days, file and serve on all parties objections to the *Report and Recommendation*, specifically designating this *Report and Recommendation*, and the part thereof in question, as well as the basis for objection thereto. 28 U.S.C. §636(b)(1); F.R. Civ. P. 72(b). Response to objections must be filed

within ten (10) days after being served with a copy thereof. F.R. Civ. P. 72(b).

The parties are specifically advised that failure to object to the *Report and Recommendation* will result in a waiver of the right to *de novo* review by the District Judge and of the right to appeal the decision of the District Court adopting the *Report and Recommendation*. See *Thomas v. Arn*, 474 U.S. 140 (1985); *Smith v. Detroit Federation of Teachers, Local 231 etc.*, 829 F.2d 1370 (6th Cir. 1987); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

September 29, 2006

s/Norah McCann King
Norah M^cCann King
United States Magistrate Judge